
ENGROSSED SUBSTITUTE SENATE BILL 6413

State of Washington

65th Legislature

2018 Regular Session

By Senate Energy, Environment & Technology (originally sponsored by Senators Van De Wege, Wellman, Palumbo, Billig, Hunt, Kuderer, Saldaña, and Chase)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to reducing the use of certain toxic chemicals in
2 firefighting activities; adding a new chapter to Title 70 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Class B firefighting foam" means foams designed for
9 flammable liquid fires.

10 (2) "Department" means the department of ecology.

11 (3) "Firefighting personal protective equipment" means any
12 clothing designed, intended, or marketed to be worn by firefighting
13 personnel in the performance of their duties, designed with the
14 intent for the use in fire and rescue activities, including jackets,
15 pants, shoes, gloves, helmets, and respiratory equipment.

16 (4) "Local governments" includes any county, city, town, fire
17 district, regional fire protection authority, or other special
18 purpose district that provides firefighting services.

19 (5) "Manufacturer" includes any person, firm, association,
20 partnership, corporation, organization, joint venture, importer, or
21 domestic distributor of firefighting agents or firefighting

equipment. For the purposes of this subsection, "importer" means the owner of the product.

(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means, for the purposes of firefighting agents and firefighting equipment, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

NEW SECTION. **Sec. 2.** (1) Beginning July 1, 2020, a manufacturer of class B firefighting foam may not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state class B firefighting foam to which PFAS chemicals have been intentionally added.

(2) The restrictions in subsection (1) of this section do not apply to any sale or use of class B firefighting foam where the inclusion of PFAS chemicals are required by federal law, including but not limited to the requirements of 14 C.F.R. 139.317, as that section existed as of January 1, 2018. In the event that applicable federal regulations change after January 1, 2018, to allow the use of alternative firefighting agents that do not contain PFAS chemicals, then the department may adopt rules for the sales and uses of firefighting foam that are addressed by the federal regulation that restrict the use of firefighting foam that contains PFAS chemicals.

NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2018, a manufacturer or other person that sells firefighting personal protective equipment to any person, local government, or state agency must provide written notice to the purchaser at the time of sale if the firefighting personal protective equipment contains PFAS chemicals. The written notice must include a statement that the firefighting personal protective equipment contains PFAS chemicals and the reasons PFAS chemicals are added to the equipment.

(2) The manufacturer or person selling firefighting personal protective equipment and the purchaser of the equipment must retain the notice on file for at least three years from the date of the transaction. Upon the request of the department, a person, manufacturer, or purchaser must furnish the notice, or written copies, and associated sales documentation to the department within sixty days.

1 NEW SECTION. **Sec. 4.** (1) A manufacturer of class B firefighting
2 foam restricted under section 2 of this act must notify, in writing,
3 persons that sell the manufacturer's products in this state about the
4 provisions of this chapter no less than one year prior to the
5 effective date of the restrictions.

6 (2) A manufacturer that produces, sells, or distributes a class B
7 firefighting foam prohibited under section 2 of this act shall recall
8 the product and reimburse the retailer or any other purchaser for the
9 product.

10 NEW SECTION. **Sec. 5.** (1) The department may request a
11 certificate of compliance from a manufacturer of class B firefighting
12 foam or firefighting personal protective equipment. A certificate of
13 compliance attests that a manufacturer's product or products meets
14 the requirements of this chapter.

15 (2) The department shall assist the department of enterprise
16 services, other state agencies, fire protection districts, and other
17 local governments to avoid purchasing or using firefighting agents
18 containing PFAS chemicals, as required in section 2 of this act. The
19 department shall assist the department of enterprise services, other
20 state agencies, fire protection districts, and other local
21 governments to give priority and preference to the purchase of
22 firefighting personal protective equipment that does not contain PFAS
23 chemicals.

24 NEW SECTION. **Sec. 6.** A manufacturer of class B firefighting
25 foam in violation of section 2 or 4 of this act, or a person in
26 violation of section 3 of this act, is subject to a civil penalty not
27 to exceed five thousand dollars for each violation in the case of a
28 first offense. Manufacturers or persons that are repeat violators are
29 subject to a civil penalty not to exceed ten thousand dollars for
30 each repeat offense. Penalties collected under this section must be
31 deposited in the state toxics control account created in RCW
32 70.105D.070.

33 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act
34 constitute a new chapter in Title 70 RCW.

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